

Sumter City-County Board of Appeals

August 11, 2010

BOA-10-23, 408 S. Lafayette Dr. (City)

I. THE REQUEST

Applicant: Gene Sebastino

Status of the Applicant: Property Owner

Request: Request for a variance from Article 6, Section G: Retrofitting Parking Lots, Buffers, and Landscaping; Article 8, Section D: Landscaping Standards and Article 8, Section J: Parking & Design Regulations to operate a new business on an existing nonconforming commercial parcel.

Location: 408 S. Lafayette Dr

Present Use/Zoning: Vacant Building/General Commercial, Highway Corridor Protection District (GC/HCPD)

Tax Map Reference: 250-09-03-004, 250-09-03-005, 250-09-03-006, 250-09-03-007, 250-09-03-009

II. BACKGROUND

The applicant, Gene Sebastino, is requesting a variance from the parking lot and landscaping retro-fit requirements for a proposed auto repair shop to be located at 408 S. Lafayette Dr. at the former site of an auto repair and sales establishment. The structure has been vacant since the previous business license for Shorter's Used Cars closed in January 2009. The applicant is asking for relief from the parking lot improvement standards, as well as the landscaping and bufferyard standards on the north side of the property and a reduced bufferyard along the street frontage, and instead is offering to do additional landscaping along the south and part of the rear portions.

Because the structure has been vacant for more than six (6) months, under Section 6.e.1, 6.g.1 and 8.d.11 the parking lot, landscaping, and bufferyards must be brought up to ordinance requirements. The site does not meet the current development standards related to parking lots, landscaping and buffering and is therefore considered to be nonconforming. In order for the Zoning Administrator to approve the business license for the proposed tenant, a variance must be granted by the Board of Appeals for the alternative landscaping and site development measures proposed by the applicant.

No site plan has been submitted; however the applicant has discussed a proposal with staff that shows partial compliance with Ordinance requirements. The property is zoned General Commercial (GC) and lies in the Highway Corridor Protection District (HCPD), which contains additional design and appearance standards with regards to parking lots and landscaping.

Existing Conditions

The site at 408 S. Lafayette Dr. contains three separate buildings located on five separate parcels, as shown in the aerial photograph to the right. Paved parking for up to sixteen (16) separate vehicles is shown to be available, not counting the number that are parked in the grassed area on the south side of the site.

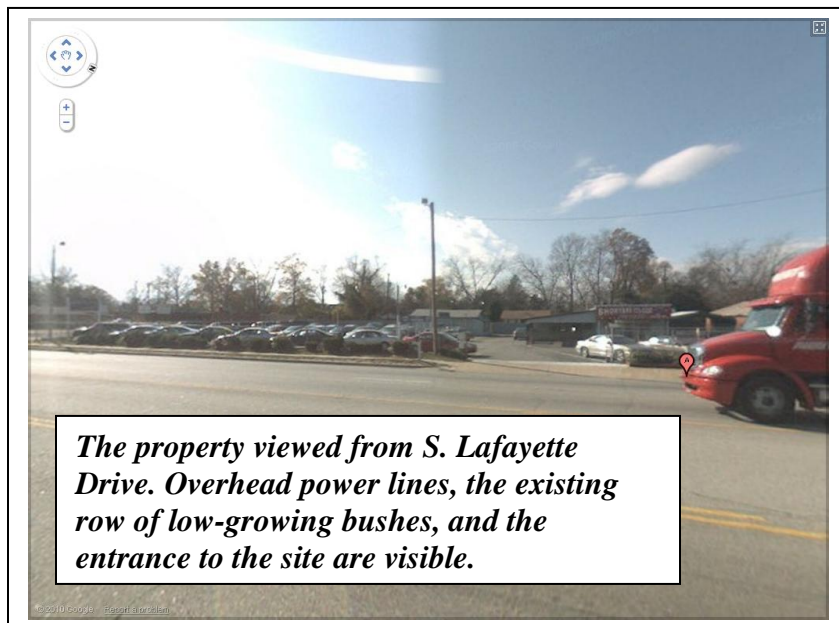
There are three (3) buildings on the site – the main building is about 70x40, an attached garage area about 70x20, and a detached accessory about 25x35 feet square, or a total of 5,075 square feet. The northernmost building abuts the property line.



The entire parcel was developed in the mid-1970s according to Tax Assessor records, which was prior to the current Zoning Ordinance, and it is non-conforming with respect to parking lot development standards, landscaping and bufferyard requirements. The paved parking areas lack concrete curb and gutter and there is a row of small bushes along the front street yard that do not meet the front bufferyard width requirements. The grassed area along the south side extends partially across the rear portion of the property that fronts on Red & White St. and contains no other landscaping.

The property is accessed by one entrance on S. Lafayette Drive. The internal circulation of the site is moderated and controlled by the placement of three (3) speed bumps. There is a six (6) foot high privacy fence along the back of the property along Red & White Street that extends

partially up the north property line where an adjoining residence is located. The entire site is also enclosed with a chain link security fence, and overhead power lines that cross the property at the front ROW limit the types and location of landscaping that could be installed.



The property viewed from S. Lafayette Drive. Overhead power lines, the existing row of low-growing bushes, and the entrance to the site are visible.

Requirements

Based on the proposed use as a garage/automobile service establishment, this site is required to have 1 parking

space for every 350 sq. ft. of gross floor area, or 15 total parking spaces including one (1) handicapped van accessible space.

In order to comply with Section 8.j.3.b of the City Zoning Ordinance which states: “**Surfacing, Drainage and Maintenance:** *Off-street parking facilities shall be properly graded for drainage to prevent damage to abutting property and/or public streets and alleys. Parking lots shall be surfaced with asphalt, concrete, or other surfaces approved by the Sumter City-County Planning Commission. Off street parking lots shall include concrete curbs and gutters, maintained in a clean, orderly and dust-free condition, and not used for the sale, repair or the dismantling or servicing of any vehicles, equipment, materials or supplies...*”, the parking lot must be retrofitted with concrete curb and gutter. In addition, customer parking areas must be clearly delineated separately from auto inventory display and auto service areas.

According to Article 8, Section D: Landscaping Standards and Article 8, Section 8.j.3 and Exhibit 23, the property must be retrofitted to provide 14 regular and one (1) handicap van accessible parking spaces with concrete curb and gutter and the following landscaped areas:

- 10 foot-wide bufferyard located out of the public ROW between the sidewalk and Lafayette Drive outside of the established curb-cut;
- 5 foot-wide bufferyard along the sides of the parking lot
- Curb and gutter at edge of paved areas
- Service area for garbage collection and utilities shall be screened and/or fenced to the equivalent of a five-foot bufferyard or privacy fence or some combination of the two.
 - *Plant materials used for screening shall be of sufficiently large and planted in such a fashion that a year-round screen at least six (6) feet in height shall be produced within three (3) growing seasons.*
- Plantings shall be watered regularly by an automatic and timed irrigation system or other acceptable methods of periodic watering.
- All plantings shall be installed according to acceptable horticultural standards.
- Deciduous street trees must have straight trunks and be of two-inch (2”) caliper at time of planting. They must be placed at intervals of forty (40) feet or else shall have smaller understory trees planted in between.
- A site landscaping plan must be submitted and approved by staff at the Sumter City-County Planning Department because of the property’s location within the Highway Corridor Protection District (HCPD).

A note to this issue: The Planning Commission has directed Planning Staff to review and draft an amendment to the non-conforming use section of the Zoning Ordinance to better address non-conforming sites. Staff is working on an approach which would require reasonable improvements to a non-conforming site in a manner directly proportional to the scale of the project, improvement, investment or property.

III. THE REQUEST

The applicant is seeking relief from the parking lot curb and gutter retro-fitting requirement and landscape/bufferyard requirements. He plans to place some landscaping within the south and west verges. These areas are wider than the ordinance requirement so consequently more landscaping could be placed here to allow this landscaping to balance the absence of any

landscaping or bufferyard along the north property line, where the garage building abuts the existing chain link fence. Also, the applicant seeks to have the existing low-growing bushes along the fence under the power lines at the front of the property within the present 5-foot wide bufferyard to suffice for the front bufferyard/streetscape requirement, and to install some plantings within the present grassed area delineated toward the rear of the parking lot. The layout and location of these areas are shown in the enhanced aerial photograph below.



In order for the Board of Appeals to grant a variance from the Zoning Ordinance, the proposed variance request must meet all four-parts of a State mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

IV. FOUR-PART TEST

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property.*



The vicinity of 408 S. Lafayette has somewhat limited development and several vacant properties.

- The property is an existing nonconforming site that is located in the Highway Design Corridor but was developed prior to any established development regulations. Along the rear of the property and directly to the north are single-family residential properties which are presently shielded from direct view of the site by the six-foot privacy fence. The commercial development in the immediate area is somewhat sparse and appears to be retail in nature. In addition, directly across the street are a number of vacant commercially-zoned properties and one existing residential structure.

2. *These conditions do not generally apply to other property in the vicinity.*

These conditions *do not* generally apply to other properties in the vicinity based on the following:

- There are no other commercial properties in the area that share the same limitations regarding existing fencing, overhead power lines, and location of the building in direct proximity to a property line abutting residential dwellings. There are no other properties with internal configuration limitations because of the number and location of buildings and speed bumps. The property is also limited because of the fact that the garage area on the northernmost side must be kept accessible, and to install landscaping in this area would render the building inaccessible and therefore useless.

3. *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

Absolute application of the ordinance requirement ***will prohibit*** or unreasonably restrict the utilization of this property due to the following:

- Due to the location of the public ROW and sidewalk, overhead power lines, and other site limitations previously stated, the property could not be used for its traditional use as an auto repair/auto sales business. The property is already buffered from adjacent residential uses by existing privacy fencing, and any site upgrades including landscaping would be a definite improvement to the area.

4. *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.*

- The applicant has presented a development plan that addresses the intent of the Zoning Ordinance, and Planning Staff believes the request to be reasonable. Improvements to overwhelmingly non-conforming sites better meets the public good than a vacant parcel that would continue to degrade over time.

V. STAFF RECOMMENDATION

Based on the fact that the requirements of the Four-Part Test are met, Staff believes this reasonable and proportionate approach is in the public interest. Staff recommends approval of BOA-10-23 contingent upon submission of a detailed landscape plan that addresses the site upgrades proposed.

While we do not envision a time where the four part test supports a 100% variance for all site standards, the public good is served when reasonable improvement can be absorbed by property owners in the course of increased business and tenancy.

VI. DRAFT MOTIONS for BOA-10-23

- A. I move that the Sumter Board of Appeals approve BOA-10-23 subject to the findings of fact and conclusions contained in the draft order dated July 14, 2010 attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-10-23 on the following findings of fact and conclusions:
- C. I move that the Sumter Board of Appeals enter an alternate motion for BOA-10-23.

VI. ZONING BOARD OF APPEALS – AUGUST 11, 2010

The Sumter City-County Board of Appeals at its meeting on Wednesday, August 11, 2010, voted to grant this request for a variance according to the proposed order submitted by staff and as outlined below:

Addendum to Staff Report:

Front street yard contains 3' high well-established boxwood hedge. Leave as is except for trimming and replacement of dead shrubbery.

South (interior) side lot line and West (rear) lot line – in established grassed area plant the following:

- 3 to 4 5-gal., 2" caliper Live Oaks 40-45 feet apart – ensure at least 15 ft. from power lines
- Small shrubs – 3 gal. size, regularly spaced, 4 to 6 feet

Apart (Boxwood, Indian Hawthorne, or Dwarf Yuopon)

OR

Medium to tall shrubs – 3 gal. size, regularly spaced, 8 to
10 feet apart (Wax myrtle, Crape myrtle)

Interior parking lot triangular verge –

1 5 gal, 2” caliper Live Oak or similar native hardwood
4 to 6 3 gal. small shrubs

Assorted perennials, hanging baskets under eaves or building soffits, and/or sturdy curb, porch,
and parking lot planters may be planted *in addition to*, but not in place of, the above plant list.
Changes must be approved by Staff prior to installation.

All plantings shall be on a timed irrigation system of regular watering, fertilized, and mulched as
necessary to ensure healthy plant growth.

Exhibit 1
Order on Variance Application
Sumter Board of Appeals

BOA-10-23, 408 S. Lafayette Dr. (City)
August 11, 2010

Date Filed: August 11, 2010

Permit Case No. BOA-10-23

The Board of Zoning Appeals held a public hearing on Wednesday, August 11, 2010 to consider the request of Gene Sabastino, 408 S. Lafayette Dr., Sumter, SC 29150 for a variance from the strict application of the Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant ☒ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

The property is an existing nonconforming site that is located in the Highway Design Corridor but was developed prior to any established development regulations. Along the rear of the property and directly to the north are single-family residential properties which are presently shielded from direct view of the site by the six-foot privacy fence. The commercial development in the immediate area is somewhat sparse and appears to be retail in nature. In addition, directly across the street are a number of vacant commercially-zoned properties and one existing structure in residential use.

2. The Board concludes that these conditions ☐ **do** - ☒ **do not** generally apply to other property in the vicinity based on the following findings of fact:

There are no other commercial properties in the area that share the same limitations regarding existing fencing, overhead power lines, and location of the building in direct proximity to a property line abutting residential dwellings. There are no other properties with internal configuration limitations because of the number and location of buildings and speed bumps. The property is also limited because of the fact that the garage area on the northernmost side must be kept accessible, and to install landscaping in this area would render the building inaccessible and therefore useless.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☒ **would** - ☐ **would not** effectively prohibit or unreasonable restrict the utilization of the property based on the following findings of fact:

Due to the location of the public ROW and sidewalk, overhead power lines, and other site limitations previously stated, the property could not be used for its traditional use as an auto repair/auto sales business. The property is already buffered from adjacent residential uses by existing privacy fencing, and any site upgrades including landscaping would be a definite improvement to the area.

4. The Board concludes that authorization of the variance ☐will –☒will not be of substantial detriment to adjacent property or to the public good, and the character of the district ☐will - ☒will not be harmed by the granting of the variance based on the following findings of fact:

The applicant has presented a development plan that addresses the intent of the Zoning Ordinance, and Planning Staff believes the request to be reasonable. Improvements to overwhelmingly non-conforming sites better meets the public good than a vacant parcel that would continue to degrade over time.

THE BOARD, THEREFORE, ORDERS that the variance is ☐ DENIED –☒ GRANTED, **subject to the following conditions:**

The Sumter City-County Board of Appeals at its meeting on Wednesday, August 11, 2010, voted to grant this request for a variance according to the proposed order submitted by staff and as outlined below:

Addendum to Staff Report:

Front street yard contains 3' high well-established boxwood hedge. Leave as is except for trimming and replacement of dead shrubbery.

South (interior) side lot line and West (rear) lot line – in established grassed area plant the following:

3 to 4 5-gal., 2" caliper Live Oaks 40-45 feet apart – ensure at least 15 ft. from power lines

Small shrubs – 3 gal. size, regularly spaced, 4 to 6 feet

Apart (Boxwood, Indian Hawthorne, or Dwarf Yuopon)

OR

Medium to tall shrubs – 3 gal. size, regularly spaced, 8 to 10 feet apart (Wax myrtle, Crape myrtle)

Interior parking lot triangular verge –

1 5 gal, 2" caliper Live Oak or similar native hardwood

4 to 6 3 gal. small shrubs

Assorted perennials, hanging baskets under eaves or building soffits, and/or sturdy curb, porch, and parking lot planters may be planted *in addition to*, but not in place of, the above plant list. Changes must be approved by Staff prior to installation.

All plantings shall be on a timed irrigation system of regular watering, fertilized, and mulched as necessary to ensure healthy plant growth.

Approved by the Board by majority vote.

Date issued: _____

Chairman

Date mailed to parties in interest: _____

Secretary

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.